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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,088	05/01/2001	Y. Tom Tang	PF-0622 USN	8378
27904	7590	03/30/2004	EXAMINER	
INCYTE CORPORATION 3160 PORTER DRIVE PALO ALTO, CA 94304				HUTSON, RICHARD G
		ART UNIT		PAPER NUMBER
		1652		

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/831,088	TANG ET AL.
Examiner	Art Unit	
Richard G Hutson	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 1/23/2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 24-26 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) 32-34 is/are withdrawn from consideration.
- 5) Claim(s) 24-26 and 31 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Applicants amendment of claim 31, in the paper of 1/23/2004, is acknowledged.

Claims 24-26, 31-34 are at issue and are present for examination.

Applicants' arguments filed on 1/23/2003, have been fully considered and are deemed to be persuasive to overcome some of the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

Applicants note that on page 2 of the previous paper of 10/20/2003 (Paper No. 17) the examiner mistyped SEQ ID NO: 91 instead of SEQ ID NO: 9. This mistake has been noted, and it is acknowledged that applicants previously elected SEQ ID NO: 9, not SEQ ID NO: 91.

Allowable Subject Matter

Claims 24-26 and 31 are allowed.

Rejoinder of method claims

Applicants comments with respect to the rejoinder of claims 32-34 are also acknowledged, however as discussed previously, the methods of claims 32-34 are not subject to rejoinder as they do not recite methods of using the allowable product but instead methods of using fragments of the allowable product. The referred to claims 32-34 are not method of use of the allowable product, claims 24-26 and 31. The scope of those polynucleotides used by the methods of claims 32-34 is greater then the scope of

those claims deemed allowable (i.e. claims 24-26 and 31) and thus claims 32-34 are not subject to rejoinder practice.

This application is in condition for allowance except for the presence of claims 32-34 to an invention non-elected with traverse in paper of 2/6/2003. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard G Hutson whose telephone number is (571) 272-0930. The examiner can normally be reached on 7:30 am to 4:00 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard G Hutson, Ph.D.
Primary Examiner
Art Unit 1652

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